

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 345 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-31-9-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. No tax or fee, except
5 as provided in this article, shall be assessed or collected from a permit
6 holder by a political subdivision having the power to assess or collect
7 a tax or fee. This section does not apply to **fees under IC 36-13** or real
8 or personal property taxes imposed by a local taxing unit."
9 Page 15, between lines 23 and 24, begin a new paragraph and insert:
10 "SECTION 7. IC 36-13 IS ADDED TO THE INDIANA CODE AS
11 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
12 2006]:
13 **ARTICLE 13. PUBLIC SERVICES USER FEES**
14 **Chapter 1. Definitions**
15 **Sec. 1. For purposes of this article, "agricultural real property"**
16 **means:**
17 **(1) buildings and other real property improvements subject to**
18 **assessment as agricultural property under the rules of the**
19 **department of local government finance; and**
20 **(2) the parcel on which the buildings and other real property**
21 **improvements are located.**
22 **Sec. 2. For purposes of this article, "commercial real property"**
23 **means:**
24 **(1) buildings and other real property improvements subject to**
25 **assessment as commercial property under the rules of the**

department of local government finance; and

(2) the parcel on which the buildings and other real property improvements are located.

Sec. 3. For purposes of this article, "industrial real property" means:

(1) buildings and other real property improvements subject to assessment as industrial property under the rules of the department of local government finance; and

(2) the parcel on which the buildings and other real property improvements are located.

Sec. 4. For purposes of this article, "other residential property" means a mobile home or manufactured home not assessed as real property.

Sec. 5. For purposes of this article, "other residential real property" means:

(1) a mobile home or manufactured home assessed as real property; and

(2) the parcel on which the mobile home or manufactured home is located.

Sec. 6. For purposes of this article, "residential real property" means:

(1) buildings and other real property improvements subject to assessment as residential property under the rules of the department of local government finance; and

(2) the parcel on which the buildings and other real property improvements are located.

Chapter 2. Application

Sec. 1. This article applies only if the county fiscal body adopts an ordinance to apply this article in the county.

Sec. 2. Except as provided in section 3 of this chapter, the fee imposed under this article:

(1) applies to each owner of:

(A) agricultural real property;

(B) commercial real property;

(C) industrial real property;

(D) residential real property;

(E) other residential property; and

(F) other residential real property; and

(2) does not apply to a parcel of unimproved land.

Sec. 3. A fee imposed under this article does not apply to an owner referred to in section 2(1) of this chapter if any of the following applies:

(1) The property is owned by a church or religious society.

(2) The property is owned by a nonprofit organization and the property owned is exempt from ad valorem property taxes.

(3) The property is owned by a governmental entity and the

property owned is exempt from ad valorem property taxes.

Chapter 3. Imposition and Distribution

Sec. 1. A county fiscal body may adopt an ordinance to apply this article in the county.

Sec. 2. Fees imposed under this article are treated as ad valorem property taxes for the purpose of distributions under the following:

(1) IC 6-1.1-21.

(2) IC 6-3.5.

(3) IC 6-5.5.

(4) IC 6-6-5.

(5) Any other law that computes a distribution based on the assessed value of tangible property or on the property tax levy imposed.

Sec. 3. The department of local government finance shall provide the information necessary for the department of state revenue and county auditors to make the distributions described in section 2 of this chapter.

Sec. 4. Fees imposed under this article are billed and collected in the same manner and at the same time that property taxes are billed and collected.

Sec. 5. The county auditor shall distribute to a political subdivision in which a property subject to the fee imposed under this article is located a part of the fee collected with respect to the property that bears the same proportion to the total amount of the fee collected with respect to the property that the tax rate imposed by the political subdivision bears to the total property tax rate in the taxing district in which the property is located.

Sec. 6. The maximum property tax levy that a political subdivision may impose for a budget year under IC 6-1.1-18.5 or IC 6-1.1-19 is reduced by the amount of fees imposed by the political subdivision under section 5 of this chapter for the budget year.

Sec. 7. A political subdivision may use revenue from fee collections in the same manner that the political subdivision uses revenue from property tax collections.

Chapter 4. Fees

Sec. 1. (a) Subject to subsection (b), the county fiscal body that adopts an ordinance to apply the fees under this article must determine and include in the ordinance:

(1) a minimum charge for agricultural real property;

(2) a minimum charge for commercial real property;

(3) a minimum charge for industrial real property;

(4) a minimum charge for residential real property;

(5) a minimum charge for other residential property; and

(6) a minimum charge for other residential real property.

(b) A minimum charge under subsection (a) may not exceed six

1 hundred dollars (\$600).

2 **Sec. 2. (a)** The amount of a fee under this article with respect to
3 property that is:

- 4 (1) associated with a parcel for a calendar year; and
5 (2) part of a category of property referred to in subsection
6 1(a) of this chapter;

7 is the amount determined under subsection (b).

8 **(b)** The amount of the fee under subsection (a) is the greater of
9 zero (0) or the remainder of:

- 10 (1) the minimum charge determined under section 1 of this
11 chapter for the category of property; minus
12 (2) the property taxes attributable to the property for the
13 calendar year after consideration of all property tax
14 deductions and credits.

15 **Sec. 3.** The county fiscal body may periodically change a
16 minimum charge determined under this chapter.

17 **Sec. 4. (a)** An initial minimum charge determined under this
18 chapter may be established only after a public hearing at which all:

- 19 (1) property owners in the county; and
20 (2) others interested;

21 have an opportunity to be heard concerning the proposed
22 minimum charge and the fee under this article.

23 **(b)** After introduction of the ordinance initially establishing the
24 minimum charges determined under section 1 of this chapter but
25 before the ordinance is finally adopted, notice of the hearing setting
26 forth:

- 27 (1) the proposed minimum charges; and
28 (2) the manner in which the fee under this article is
29 determined based on the minimum charges;

30 must be given by publication one (1) time each week for two (2)
31 weeks in a newspaper of general circulation in the county. The last
32 publication must be at least seven (7) days before the date fixed in
33 the notice for the hearing. The hearing may be adjourned as
34 necessary.

35 **Sec. 5. (a)** The ordinance establishing the initial minimum
36 charges determined under section 1 of this chapter, either as:

- 37 (1) originally introduced; or
38 (2) amended;

39 must be passed and put into effect after the hearing under section
40 4 of this chapter.

41 **(b)** A copy of the ordinance establishing the minimum charges
42 must be:

- 43 (1) kept on file in the office of the county auditor; and
44 (2) open to public inspection.

45 **Sec. 6.** A change or readjustment of a minimum charge
46 determined under this chapter may be made in the same manner

1 as the minimum charge was originally established.

2 **Chapter 5. Liens for Fees**

3 **Sec. 1. The fees made, assessed, or established under this article**
4 **against residential real property, other residential real property, or**
5 **other residential property in the county are a lien against the**
6 **property.**

7 **Sec. 2. Except as provided in sections 5 and 6 of this chapter, a**
8 **lien attaches at the time of the recording of the list in the county**
9 **recorder's office as provided in IC 36-13-6. The lien:**

10 (1) **is superior to and takes precedence over all other liens**
11 **except the lien for taxes; and**

12 (2) **shall be enforced under this article.**

13 **Sec. 3. If fees under this article are not paid by the due date, the**
14 **fees become delinquent and a penalty of ten percent (10%) of the**
15 **amount of the fees attaches to the fees. The county may recover:**

16 (1) **the amount due;**

17 (2) **the penalty; and**

18 (3) **reasonable attorney's fees;**

19 **in a civil action in the name of the county.**

20 **Sec. 4. The fees under this article, together with a penalty**
21 **determined under section 3 of this chapter, are collectible in the**
22 **manner provided by this article.**

23 **Sec. 5. (a) A fee under this article is not enforceable as a lien**
24 **against a subsequent owner of property unless the lien for the fee**
25 **was recorded with the county recorder before the conveyance to**
26 **the subsequent owner.**

27 (b) **If the property is conveyed before the lien can be filed, the**
28 **officer of the county who is charged with the collection of the fee**
29 **shall notify the person who owned the property at the time the fee**
30 **became payable. The notice must inform the person that payment,**
31 **including any penalty for delinquencies, is due not less than fifteen**
32 **(15) days after the date of the notice. If payment is not received**
33 **before one hundred eighty (180) days after the date of the notice**
34 **have elapsed, the amount due may be expensed as a bad debt loss.**

35 **Sec. 6. (a) This section applies whenever a property owner has**
36 **notified the county by certified mail with return receipt requested**
37 **of the address to which the owner's notice is to be sent.**

38 (b) **A lien for a fee under this article does not attach against**
39 **residential real property, other residential real property, or other**
40 **residential property occupied by someone other than the owner**
41 **unless the officer of the county who is charged with the collection**
42 **of fees notifies the owner of the property after the fee has become**
43 **sixty (60) days delinquent.**

44 **Sec. 7. (a) The county shall release:**

45 (1) **liens filed with the county recorder after the recorded date**
46 **of conveyance of the property; and**

(2) delinquent fees incurred by the seller;
on receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:

(1) That the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner.

(2) That the purchaser has not been paid by the seller for the delinquent fees.

Chapter 6. Enforcement of Delinquencies

Sec. 1. This chapter applies only to fees or penalties under this article that have been due and unpaid for at least ninety (90) days.

Sec. 2. The county treasurer shall enforce the payment of fees and penalties imposed under this article. The officer shall, not more than two (2) times in a year, prepare a list of the delinquent fees that are enforceable under this chapter. The list must include the following:

(1) The name of each owner of each residential real property, other residential real property, or other residential property on which the fees have become delinquent.

(2) The description of the property as shown by the records of the office of the county auditor.

(3) The amount of the fees, together with the amount of the penalty for each fee.

Sec. 3. (a) The county treasurer shall record a copy of the list prepared under section 2 of this chapter in the office of the county recorder.

(b) The county recorder shall charge a fee for recording the list in accordance with the fee schedule established in IC 36-2-7-10.

(c) After recording the list, the county treasurer shall mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) A service charge of five dollars (\$5), which is in addition to the recording fee charged under this section and the release of lien fee charged under section 5 of this chapter, shall be added to each delinquent fee that is recorded.

Sec. 4. (a) Using the lists prepared and recorded under sections 2 and 3 of this chapter:

(1) after April 1 of the preceding year; and

(2) before April 1 of the current year;

the county treasurer shall before June 1 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next November.

(b) The county and the officers and employees of the county are not liable for any material error in the information on a list prepared under this chapter.

Sec. 5. (a) The county treasurer shall release a recorded lien when the:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges; and
- (4) recording fees;

have been fully paid.

(b) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

Sec. 6. (a) On receipt of the list under section 4 of this chapter, the county auditor shall add a fifteen dollar (\$15) certification fee for each property on which fees are delinquent. The certification fee is in addition to all other fees, penalties, and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges;
- (4) recording fees; and
- (5) certification fees;

that are due not later than the due date of the next November installment of property taxes.

(b) The county treasurer shall include any unpaid charges for the:

- (1) delinquent fee;
- (2) penalty;
- (3) service charge;
- (4) recording fee; and
- (5) certification fee;

for each property owner at the time the next cycle's property tax installment is billed.

Sec. 7. After June 1 of each year, the county treasurer may not collect or accept:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges;
- (4) recording fees; or
- (5) certification fees;

from property owners whose property has been certified to the county auditor.

Sec. 8. If a:

- (1) delinquent fee;
- (2) penalty;
- (3) service charge;
- (4) recording fee; or
- (5) certification fee;

is not paid, the county treasurer shall collect the unpaid money in the same way that delinquent property taxes are collected.

1 **Sec. 9. (a) At the time of each semiannual tax settlement, the**
 2 **county treasurer shall certify to the county auditor all:**

- 3 (1) fees;
 4 (2) service charges; and
 5 (3) penalties;
 6 **that have been collected.**

7 **(b) The county auditor shall:**

- 8 (1) deduct the service charges and certification fees collected
 9 by the county treasurer; and
 10 (2) pay to the county treasurer the remaining fees and
 11 penalties due the county.

12 **(c) The county treasurer shall:**

- 13 (1) retain the service charges and certification fees that have
 14 been collected; and
 15 (2) deposit the charges and fees in the county general fund.

16 **Sec. 10. (a) This section applies to a:**

- 17 (1) fee;
 18 (2) penalty; or
 19 (3) service charge;

20 **that was not recorded before a recorded conveyance.**

21 **(b) The:**

- 22 (1) fee;
 23 (2) penalty; or
 24 (3) service charge;

25 **shall be removed from the tax roll for a purchaser who, in the**
 26 **manner prescribed by IC 36-13-5-7, files a verified demand with**
 27 **the county auditor.**

28 **Chapter 7. Foreclosure of Liens**

29 **Sec. 1. A county may, as an additional or alternative remedy,**
 30 **foreclose a lien established by this article as a means of collection**
 31 **of fees, including any penalty on the fees.**

32 **Sec. 2. (a) In all actions brought to foreclose a lien under this**
 33 **chapter, the county is entitled to recover the following:**

- 34 (1) The amount of the fees.
 35 (2) Any penalty on the fees.
 36 (3) Reasonable attorney's fees.

37 **(b) The court shall order that the foreclosure sale be made**
 38 **without relief from valuation or appraisement statutes.**

39 **Sec. 3. Except as otherwise provided by this article, the following**
 40 **apply in all actions to foreclose a lien under this chapter:**

- 41 (1) The laws concerning municipal public improvement
 42 assessments.
 43 (2) The rights, remedies, procedure, and relief granted the
 44 parties to the action."

45 Page 20, between lines 36 and 37, begin a new paragraph and insert:

1 "SECTION 13. [EFFECTIVE JULY 1, 2006] **IC 36-13, as added**
2 **by this act, applies only to budget years beginning after December**
3 **31, 2006.**"

4 Renumber all SECTIONS consecutively.
 (Reference is to ESB 345 as printed February 24, 2006.)

Representative Aguilera